

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2459 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

EBRAHIM RASULKHAN THAKORE

Versus

DIRECTOR GENERAL OF POLICE, GUJ. STATE & ORS.

Appearance:

MR RR VAKIL for Petitioner

MR NN PANDYA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/08/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, a Police Sub Inspector (P.S.I.) in the Police Department, Government of Gujarat, filed this Special Civil Application before this Court challenging therein the order of the respondent dated 7.2.84, annexure 'B', under which he was sought to be reverted from the post of Police Sub Inspector to that of Head Constable, Gr.I.

2. Rule was issued by this Court in this case on 14th May 1984 and interim relief in terms of Para 20(D) has also been granted. In Para 20(D), prayer has been made by the petitioner that the respondents be restrained from operating the annexure 'B' by which the petitioner was sought to be reverted from the post of P.S.I. to that of Head Constable, Gr.I. From reading of the order dated 7.2.84, it comes out that the petitioner was given promotion in a stopgap arrangement, i.e. when the posts of P.S.I. have become vacant as the incumbents of these posts have been sent for practical training. On return of these persons, under the order dated 7.2.84, the petitioner was sought to be reverted. In the order dated 7.2.84, the petitioner is stated to be 'unqualified P.S.I'.

3. The petitioner was entered in the government service in the year 1947 and by now he would have retired. One of the contentions made by the learned counsel for the petitioner is that the juniors were retained whereas the petitioner, a senior person, was sought to be reverted. The petitioner was promoted in the year 1982 and he continued on the promoted post for a considerable period. In the circumstances, I do not consider it to be appropriate to go on the question whether the juniors were retained or not. The fact remains that this order was not given effect to and the petitioner would have retired from the post of P.S.I. The respondents have not filed reply to this Special Civil Application. The petitioner has also been granted grade increment in the grade of P.S.I. under the order dated 12th April 1983. As the petitioner would have retired from the post of P.S.I., he would have been given all the retirement benefits. The reversion of the petitioner is not sought to be made by way of penalty. It is also not a case that the petitioner's work was not satisfactory on the post of P.S.I. When this Court has protected the petitioner at interim stage and he was allowed to take all the benefits of the post of P.S.I., I fail to see any justification at this stage to go on the merits of the case, more so when the respondents have not filed any reply and it is not also say that the respondents intend to take away the benefits which have been given to the petitioner in case this Special Civil Application is dismissed. The fact remains that the petitioner was allowed to continue to hold the post of P.S.I. by this Court by way of interim relief. Taking into consideration the totality of the facts of the case, interest of justice will be met in case this Special Civil Application is disposed of with direction to the respondents that the impugned order may not be given

effect. Rule is made absolute with no order as to costs.

.....

(sunil)